

IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE SEVENTEENTH DAY OF FEBRUARY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE B.PRAKASH RAO

WRIT PETITION NO : 13385 of 1995

Between:

- 1 OM Prakash Agarwal S/o. Kedarmal Agarwal
Hyderabad
- 2 Smt. Gite Bai W/o. Anand Kumar Agarwal
Hyderabad

..... PETITIONERS.

AND

The Special Deputy Collector,
Hyderabad.

.....RESPONDENT

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue an appropriate order, direction or a writ particularly one in the nature of a writ of Mandamus declaring that the insistence of the respondent to obtain Clearance from the Competent Authority under Urban Land Ceilings Act 1976 for passing the award under the Land Acquisition Act is arbitrary and illegal.

Counsel for the Petitioners:MR.KOKA RAGHAVA RAO

Counsel for the Respondent.: GP FOR LAND ACQUISITION

The Court made the following :

ORDER:

Heard Sri Koka Raghava Rao, the learned counsel appearing for the petitioners and the learned Government Pleader for Land Acquisition appearing on behalf of the respondent.

The petitioners herein, claiming to be the absolute owners and possessors of the house bearing No.6-2-980 situated at Raj Bhavan Road, purchased the same under a registered sale deed dated 29.05.1969, filed this writ petition, *inter alia*, seeking to assail the impugned letter dated 08.05.1995 issued by the Special Deputy Collector (Land Acquisition) General, Hyderabad whereunder the petitioners were asked to approach the Urban Land Ceiling Act for appropriate declaration etc., Hence, the writ petition.

Sri Koka Raghava Rao, the learned counsel appearing for the petitioners submits that in regard to the aspects as covered under the Urban Land Ceiling, no power as such is vested with the respondent herein and therefore the question of issuance of notice does not arise.

The learned Government Pleader appearing for the respondent sought to sustain the impugned letter mainly on the ground that having regard to the principles as laid down by the Apex Court and also this Court to the effect that in case if the property is effected by Urban Land Ceiling Act, it is not necessary to proceed under the Land Acquisition Act and therefore the impugned action is only for achieving the said purpose.

Having considered the submissions made from both the sides and on perusal of the material, the question which falls for consideration is as to whether the impugned letter dated 08.05.1995 issued by the respondent is valid ?

There is no dispute to the fact that the petitioners are the owners of the property in question having purchased the same under a registered sale deed and further it appears that the respondent has already issued a notification under Section 4 of the Land Acquisition Act on 12.01.1994 seeking for acquisition of 64 square meters and enquiry under Section 5-A of the said Act was taken up and this was also followed by the declaration under Section 6 of the said Act. Thereafter, the present letter is issued by the respondent on 08.05.1995 calling upon the petitioners to take the follow up proceedings as provided for under Urban Land Ceiling Act. Admittedly, none of the provisions of the Urban Land Ceiling Act confer any power on the respondent herein. The authorities and the Tribunal as well situated are totally different and further the question of issuing any such direction by the respondent herein is not only outside the scope of the very Legislation but also beyond the jurisdiction of powers of the authority as conferred on the respondent herein. In view of the same, the impugned orders are very unsustainable and liable to be set aside.

The writ petition is allowed. The impugned proceedings No.H/3914/1988, dated 08.05.1995 are set aside. No costs.

B. PRAKASH RAO, J

17th February 2005.

Chvn.

That Rule Nisi has been made absolute as above.

Witness the Hon'ble Sri Devinder Gupta, the Chief Justice on this the Thursday, the Seventeenth day of February Two thousand and five.

ASSISTANT REGISTRAR.

// TRUE COPY//

SECTION OFFICER.

To

1 The Special Deputy Collector
Hyderabad

2 Two C.Cs. to the G.P. for Land Acquisition, High Court Buildings,
Hyderabad (OUT).

3 Two C.D. copies.